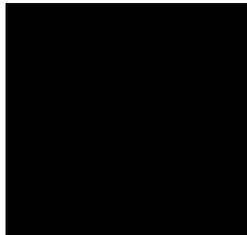


For Release on Delivery  
expected at  
10:00am EST  
Tuesday  
April 27, 1999  
Report Number: TR-1999-091

# **Motor Carrier Safety Program**

**Statement of  
The Honorable Kenneth M. Mead  
Inspector General  
U.S. Department of Transportation**



Mr. Chairman and Members of the Committee:

We appreciate the opportunity to be here today to discuss the Oversight of the Office of Motor Carriers.

We want to make particular note of the priority that Secretary Slater has placed on transportation safety. DOT's number one strategic goal is stated quite simply to: "Promote the public health and safety by working toward the elimination of transportation-related deaths, injuries and property damage." We can personally attest to the fact that the Secretary has made it clear to all that this goal is the "North Star" for DOT to follow.

Consistent with DOT's priorities, the Office of Inspector General has made the oversight of DOT's safety programs its highest priority. Over the years, safety has been a large part of our audit, evaluation, and investigative work. We are committed to doing all we can to help DOT achieve its number one goal.

Surface transportation safety is of critical importance to the Department. By far, the greatest number of transportation-related fatalities involve motor vehicles. Highway crashes claim at least 40,000 lives annually, of which more than 5,300 involve motor carriers, i.e., large trucks.<sup>1</sup>

Our statement today addresses the Federal Highway Administration's Office of Motor Carriers oversight of motor carriers. This has been a major issue of the Congress in the past year. We presented testimony on motor carrier and surface transportation safety issues in February 1999 before the House Appropriations Committee, Subcommittee on Transportation and the oversight of the Office of Motor Carriers in March 1999 before the House Transportation and Infrastructure Committee, Subcommittee on Ground Transportation.

Before discussing this issue, we want to recognize the fact that the vast majority of transportation companies and equipment operators are upstanding citizens, compliant with transportation safety rules and regulations, and equally interested in safety and in significantly reducing the number of accidents and fatalities. The real problem is the relatively small portion of the industry that puts profit as their "North Star" and in doing so, puts the safety of the traveling public in the "back seat."

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<sup>1</sup> A "large truck" is defined by the National Highway Traffic Safety Administration (NHTSA) as having a manufacturer's gross vehicle weight rating over 10,000 pounds. The Office of Motor Carriers (OMC) defines a "large truck" similar to NHTSA but adds it must have at least 6 tires. For purposes of our analysis, and for cases throughout our testimony, large trucks typically exceed a gross vehicle weight rating of 20,000 pounds.

The issues we will address this morning regarding the oversight of motor carrier safety are:

- The number of fatalities associated with truck crashes has been increasing. More than 5,300 people died in 1997 in truck crashes. (As of April 21, 1999, both Federal Highway Administration (FHWA) and NHTSA advised the OIG that 1997 fatality data is the most recent data available.) This equates to a major airline crash with 200 fatalities every 2 weeks. DOT's FY 1999 outcome measure established under the Government Performance and Results Act (GPRA) for truck safety is based on reducing the fatality rate. However, this methodology can allow the absolute number of fatalities to increase as the number of miles driven increases. The outcome measure and the focus of the motor carrier program must be changed to one that also aims at substantially reducing the number of fatalities. The Department recently made this change.
- The Office of Motor Carriers (OMC) has shifted emphasis from enforcement to a more collaborative approach to safety. This is a good approach for motor carriers that have safety as a top priority, but it has gone too far. It does not work effectively with firms that persist in violating safety rules and do not promptly take sustained corrective action. In FY 1998, safety investigators performed fewer than two compliance reviews each month; only 11 percent of the violations identified by inspectors resulted in assessments, and settlements amounted to only 46 percent of the dollar amounts assessed which is down from 67 percent in FY 1995. FHWA agrees and has said that the "pendulum has swung too far towards education/outreach and now must move towards stronger enforcement, particularly for repeat offenders."
- Approximately 47 percent of OMC's workforce responding to our survey rated OMC's enforcement program as Poor to Fair. Over 86 percent favored putting unsafe carriers out-of-service, assessing larger fines for repeat offenders, and taking more enforcement actions.
- Since 1997, OMC has been referring carriers with the most egregious records and indications of criminal behavior to our office for investigation. Since January 1, 1997, there have been 41 indictments, 35 convictions, and \$2.6 million in fines, restitution, and recoveries associated with OIG motor carrier cases. There are 35 criminal investigations currently ongoing. OMC is not, however, aggressively using the tools it has available (such as progressive fines, sanctions, and total carrier "shut downs") to deal with the truly bad companies.

The number of compliance reviews OMC performed has declined by 30 percent since FY 1995, even though there has been a 36 percent increase in the number of motor carriers over this period. There are about 6,000 motor carriers operating with a less-than-satisfactory safety rating that received those ratings from October 1995 through September 1998. FHWA has agreed to perform more compliance reviews.

- OMC is using its Safety Status Measurement System (SafeStat) to target motor carriers with poor records for compliance reviews. Nearly 250 (of 1,646) of high-risk carriers recommended for a compliance review in March 1998, the most recent SafeStat report available as of April 21, 1999, did not receive one. This system is a major improvement over past practices. However, the system cannot target all carriers with the worst records because OMC's database is incomplete and inaccurate, and data input is not timely. FHWA agreed that its data needs to be improved.
- About 44 percent of trucks entering the U.S. from Mexico do not meet U.S. safety standards. This rate is unacceptably high in comparison to 17 percent for Canadian and 25 percent for U.S. trucks. There are too few safety inspectors at the Mexican border--for example at El Paso, where 1,300 trucks enter the U.S. daily, there is only one inspector. OMC and the border states disagree about who has responsibility for these inspections. Therefore, there has been little improvement. It is time to resolve this issue and establish a strong inspection presence at the border.
- There are no clear-cut answers to the organizational placement issues regarding OMC. We have concerns with its placement in the FHWA because its focus is so heavy on infrastructure development and investment. Furthermore, actions by OMC's senior leadership have indicated that an "arms length" relationship did not always exist with the industry it was responsible for overseeing. Only 20 percent of the OMC staff responding to our survey expressed any opposition to moving the office from FHWA to NHTSA. The truck safety mission must be placed in an organization where it has strong leadership, a clearly defined mission aimed at safety, and management willing to make tough decisions--like issuing "shut down" orders when appropriate. This is true, regardless of whether the motor carrier safety function is left at FHWA, merged with NHTSA, or some other form of organization is established, such as either a Motor Carrier Safety Administration or a more encompassing Surface Transportation Safety Administration. The latter would incorporate the surface safety oversight functions of FHWA (OMC), NHTSA, Research and Special Programs Administration (RSPA), Federal Railroad Administration (FRA), and Federal Transit Administration (FTA).

Considering the range of options, the two most viable and practical are leaving the motor carrier safety function in the Federal Highway Administration or creating a Motor Carrier Safety Administration dedicated to motor carrier safety. The principal drawback to the NHTSA option is that NHTSA's mission, though dedicated to safety, is heavily focused on regulating the manufacture of vehicles. NHTSA has no experience regulating and enforcing the safety of operating trucking companies and their drivers. A Surface Transportation Safety Administration, while appealing in concept, would be the most complex and disruptive to establish. Large pieces of five Department of Transportation agencies would have to be removed from their present organization and merged into one to form the new organization.

- One approach available to the Secretary and the Congress is to base the decision on whether a Motor Carrier Safety Administration is necessary on FHWA's commitment and expeditious implementation of actions needed to substantially strengthen enforcement. The Federal Highway Administration's comments on this report make such a pledge. If Congress and the Administration decide on this approach, the measure of success should be bottom-line improvements in motor carrier safety and a one-year timeline should be set to judge the agency's progress and make the final decision.

However, based on our work, together with a nearly 30-year history of congressional and public calls for strengthening motor carrier safety, we increasingly are of the view that it would be in the long term interests of public safety to create a Motor Carrier Safety Administration. The simple fact is that under the current organizational arrangement, motor carrier safety necessarily will compete for leadership attention and emphasis with the legitimate, if not primary, Federal Highway Administration mission of investing over \$20 billion annually in highways and bridges. In light of the increasing number of fatalities associated with large trucks, demand for truck drivers and enormous industry growth in the last few years, the safety challenge will be larger and more urgent. This situation justifies an agency with a clear, preeminent safety mission, free of the need to compete with other very important highway transportation department missions.

We also are troubled by the fact that it has taken so long for the Federal Highway Administration to recognize, as it now does in comments on this report, that the pendulum has swung too far away from enforcement of safety rules. Also, almost a year ago, TEA-21 was enacted, which provided additional enforcement authority to the Federal Highway Administration, yet those mandates have not been implemented. The Federal Highway Administration now says it will move to do this immediately and improve the safety program,

but this is occurring on the heels of and with prompting by multiple congressional hearings, adverse findings by the DOT Inspector General, the General Accounting Office, and the National Transportation Safety Board.

We hope the Federal Highway Administration's commitments to change are followed through with a sense of urgency and made permanent, as this would save many lives on our highways, prevent injuries, and avoid economic loss. In our opinion, the likelihood of this occurring would increase if the leadership and charter of the agency responsible for motor carrier safety had motor carrier safety as its exclusive and unambiguous mission, together with a strong safety enforcement program.

However, it should be recognized that unless visible improvements in safety were achieved and a strong enforcement program adopted, critics would question the new Motor Carrier Safety Administration's closeness to industry, just as they do with the current Office of Motor Carriers. It is pointless to make an organizational change if only the chairs from one agency are shifted to another or by simply changing the organization's name.

- Organizational realignment and strong industry oversight alone will not achieve significant reductions in fatalities. Other actions that will have a significant bearing on motor carrier safety include improved driver accountability, required annual vehicle inspections, and revising hours of service regulations. Improvements are needed to ensure compliance with Federal motor carrier safety regulations and to improve the effectiveness of the Motor Carrier Safety Program. We recommended that the Federal Highway Administrator:
  - Obtain approval from the Department to revise the motor carrier safety goal to substantially reduce the absolute number of deaths per year. The Department concurs. The Department has recently made this change.
  - Strengthen the enforcement program to include comprehensive policies and procedures that:
    - Require strong enforcement actions against repeat violators.
    - Establish stiffer fines that cannot be considered as a "cost of doing business" and, if necessary, seek appropriate legislation raising statutory penalty ceilings.
  - Establish criteria to determine when the imminent hazard sanction should be imposed.
  - Require follow-up visits and monitoring of those motor carriers with a less-than-satisfactory safety rating at varying intervals.

- Remove operating authority for motor carriers that do not pay civil penalties.
- Establish a control mechanism that requires written justification by the OMC State Director when compliance reviews of high-risk carriers are not performed.
  - Identify criteria and timeframes for closing enforcement cases.
- Offer incentives to States to provide timely, accurate and complete crash, inspection and traffic violation data, and withhold funds from States that continue to report insufficient data.
- Require motor carriers to submit information on vehicles and drivers when applying for operating authority and to periodically update this information.
- Obtain and analyze crash causes and fault as a result of comprehensive crash evaluations to identify safety improvements.
- Standardize OMC and NHTSA crash data requirements, crash data collection procedures, and reports.

## **Motor Carrier Safety**

During last year's appropriation process, the House Appropriations Subcommittee on Transportation recommended that the OMC be transferred from the Federal Highway Administration (FHWA) to the National Highway Traffic Safety Administration (NHTSA). The proposal was not enacted and in late October, Chairman Wolf and Senator McCain, Chairman of the Senate Commerce, Science, and Transportation Committee, requested that we review the effectiveness of OMC's truck safety program and the merits of transferring OMC from FHWA.

We have done extensive analysis of the OMC program. We surveyed OMC safety investigators and their field-level supervisors; reviewed the actions taken by OMC in response to our 1997 audit recommendations; analyzed data contained in OMC's Motor Carrier Management Information System; and reviewed data in other DOT databases. We also interviewed and discussed truck safety issues with OMC officials at all levels, state enforcement personnel, American Trucking Associations officials, and owners and operators of trucking companies.

As part of a separate audit, we reviewed the effectiveness of OMC and the border

states' efforts to ensure commercial trucks entering the United States meet our safety standards. We also investigated allegations that senior OMC officials initiated industry lobbying to defeat proposed legislation to transfer OMC to NHTSA.

### **Performance Measure Does Not Focus on Reducing Fatalities**

In just the last 3 years, the number of motor carriers increased by 36 percent (or 118,228) from 329,375 in 1995 to 447,603 in 1998.<sup>2</sup> The number of vehicle miles traveled increased 7 percent and totals about 200 billion per year. The fatality rate, i.e. the number of fatalities for crashes involving large trucks per 100 million vehicle miles traveled (VMT), which is the Department's measure for evaluating its progress in enhancing safety, has remained constant at about 2.8 percent for the last 3 years. Moreover, the number of fatalities involving large trucks has increased by 9 percent. In 1995, 4,918 people died in crashes involving large trucks. In 1997, the latest year for which the Department has fatality data, 5,355 people died in crashes involving large trucks. The fatality rate stayed the same while 437 more people were killed. We have been advised the Department has agreed to revise its goal accordingly.

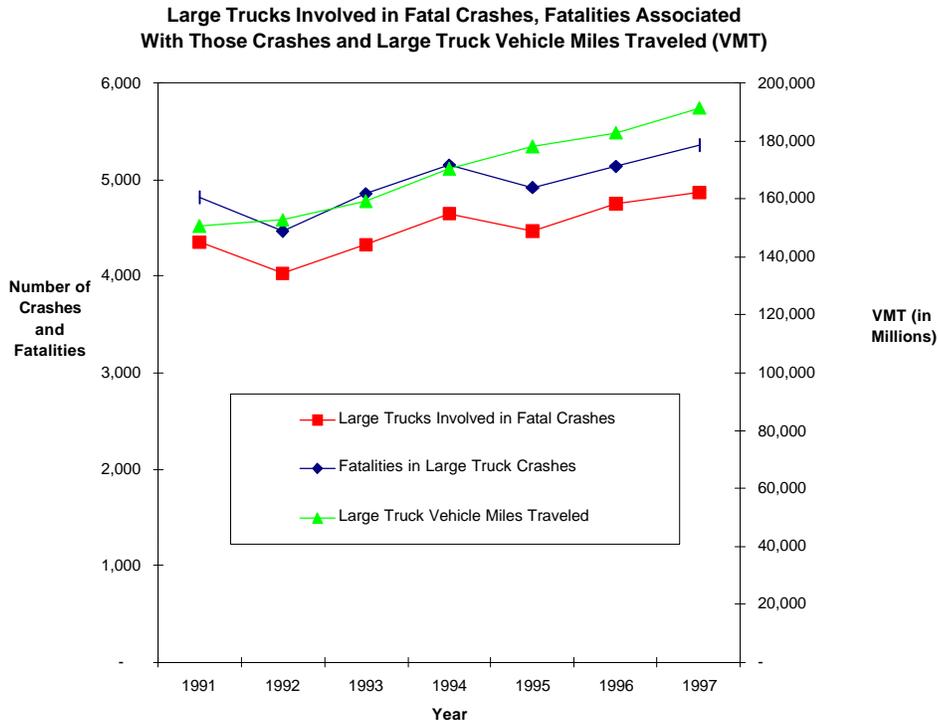
The Department's goal, as established in accordance with the Government Performance and Results Act, is to reduce the fatality "rate" to 2.5 percent. With the expected increase in the number of carriers and vehicle miles traveled, the goal could be achieved even though the number of fatalities could increase above the 5,355.

In its FY 2000 Performance Plan, FHWA proposed a goal of reducing the number of fatalities involving commercial motor vehicle. The proposed goal is to reduce fatality numbers by 3.9 percent by 2000, from 5,126 fatalities in 1996 to 4,934 in 2000. However, fatalities have increased by 20 percent since 1992. Without a strong enforcement program to reverse the increasing number of fatalities involved in large truck crashes, there is little assurance FHWA's goal will be achieved.

Fatalities associated with air and rail transportation have decreased, even though passenger miles increased. For example, there were no fatalities in U.S. commercial aviation during 1998. The number of fatalities involved in large truck crashes equates to a major airline crash involving about 200 deaths every 2 weeks. This number of fatalities is unacceptable, and much more needs to be done to reduce the risks.

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<sup>2</sup> Source: Active interstate motor carriers in OMC's Motor Carrier Management Information System.



### **Enforcement Actions Are Not Effective in Encouraging Future Compliance**

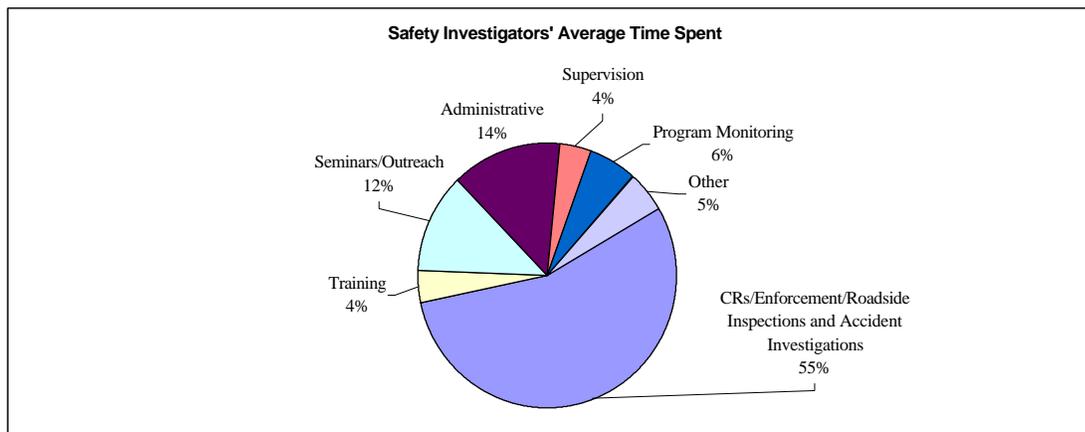
Beginning with the Motor Carrier Safety Act of 1984, Congressional references to OMC's mission have emphasized the need for strong enforcement of motor vehicle safety laws and regulations. However, in 1997, OMC issued a policy statement indicating that enforcement actions were to be considered as a last resort in efforts to encourage compliance with safety regulations. In keeping with this policy, fines are lower than statutory maximums for first violations, fines for repeat violations are increased moderately, and assessed fines are often reduced during the settlement process.

OMC has the authority to shut-down motor carriers that pose an "imminent hazard" (any condition of a vehicle, employee, or commercial motor vehicle operations that is likely to result in serious injury or death if not discontinued immediately). OMC State Directors and safety investigators stated that the definition of "imminent hazard" is broad and clear criteria does not exist for determining when a motor carrier posed an "imminent hazard". Shut-down orders are seldom used against flagrant violators to induce compliance. During FYs 1995 through 1998, 846 motor carriers were subjected to multiple enforcement actions. Seventeen motor carriers were issued shut-down orders, nine due to "imminent hazard" and eight due to unsatisfactory safety ratings associated with transporting passengers and hazardous materials. For example, one motor carrier repeatedly violated six serious driver and vehicle maintenance safety regulations but was not

placed out-of-service.

### **OMC Decreased Its Emphasis on Enforcement**

Our work shows that OMC has decreased its emphasis on enforcement in favor of other initiatives such as education and partnering. Our survey<sup>3</sup> of OMC personnel disclosed that safety investigators reported spending approximately 55 percent of their time performing compliance reviews, enforcement activities, roadside inspections and accident investigations.



Compliance reviews are onsite investigations of the motor carrier's operations to determine whether a motor carrier meets the safety fitness standards. Safety investigators averaged fewer than two compliance reviews per month in FY 1998. The number of compliance reviews performed in FY 1998 decreased by 30 percent compared to those performed in FY 1995. Seventy-two percent of the motor carriers do not have a safety rating and of those with a rating, 38 percent have a less-than satisfactory rating. Furthermore, from FY 1995 to FY 1998, the average settlement per enforcement case decreased by 57 percent from \$3,799 to \$1,600.

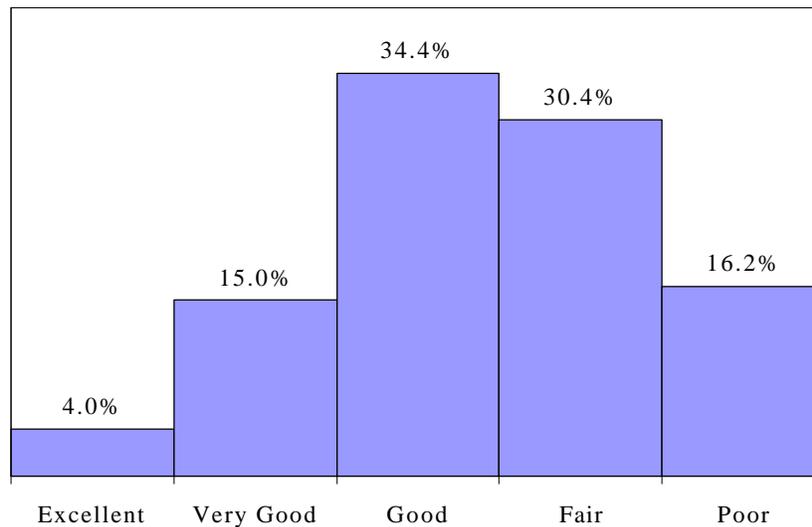
### **OMC'S Own Staff Rated the Enforcement Program Poor to Fair Investigators Feel Stronger Enforcement Is Needed**

Seventy-three percent of OMC's safety investigators and field-level supervisors responded to our survey. This is a very high response rate. Almost half said that current program direction does not support strong enforcement. Approximately 47 percent of the respondents rated OMC's enforcement program as POOR to FAIR.

<sup>3</sup> Attached to this statement is a table showing the results of our survey.

In order to make enforcement more effective, over 94 percent said that attention needs to be placed on putting unsafe carriers out of service, 90 percent favored assessing larger fines for repeat offenders, and 86 percent indicated more enforcement actions were needed. It becomes clear from the high response rate to our survey, and the very frank and straightforward individual narrative comments and responses to our questions, that OMC safety investigators want to do an effective job, but the current program direction requires major changes if they are to be effective.

### **OMC Personnel Rating of the OMC Enforcement Program**



Let me give you an example of the seriousness of the problem.

In one case, OMC referred a trucking company to us for investigation that had (1) a history of serious violations of the regulations dating back several years, (2) continued to operate and violate the regulations despite assessment of civil penalties, and (3) evaded an Out-of-Service Order issued against it by OMC.

The regulatory enforcement history for this carrier is compelling. In 1994, OMC conducted a compliance review that disclosed substantial violations of Federal hours-of-service regulations and failure to drug-test drivers. Specifically, the review found that the carrier unlawfully “required or permitted” its drivers to exceed the hours-of-service limits. OMC cited one driver who drove more than 30 hours after having already been on duty for the 70-hour limit during a consecutive 8-day period. OMC’s review discovered 47 total violations of safety regulations, but cited the carrier for only 21, resulting in the carrier paying a civil

penalty of \$10,500.

OMC conducted follow up reviews of the carriers in 1995 and 1996. OMC's 1995 review found 116 of 277 driver logs examined showed drivers exceeded the hours-of-service regulations. OMC's review also discovered the carrier was not testing drivers for controlled substances as required under motor carrier safety regulations. However, the carrier was cited for only 14 violations, which resulted in the carrier paying a civil penalty of \$10,750.

The 1996 review resulted in OMC issuing an Out-of-Service Order against the carrier to shut it down and ordering it to pay a \$10,000 civil penalty. OMC advised OIG that it had no record of collecting the \$10,000 civil penalty assessed at the time the Out-of-Service Order was issued.

The Out-of-Service Order deemed the motor carrier "an imminent hazard to safety" and specified that the carrier must not attempt to evade the Order by continuing to operate under the name of another person or company without OMC's approval. A few weeks after issuing the Out-of-Service Order, OMC contacted the company to determine if they were complying with the Order. At that time, OMC was denied access to company records and told the business was no longer in operation. OMC subsequently learned that the carrier was operating under a new name, without OMC's approval, in violation of the Order.

After determining the company was violating the Order, a meeting was held between OMC and the carrier's owner. During that meeting, the owner presented OMC with limited records indicating the company was operating under a new name and in compliance with the motor carrier regulations. OMC allowed the carrier to continue operations.

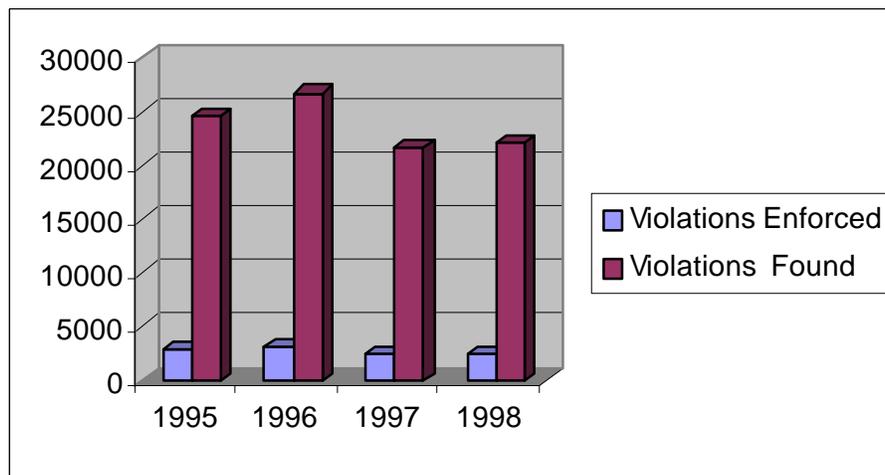
In 1998, OMC attempted to conduct a compliance review of the carrier after receiving allegations that the carrier was again violating motor carrier regulations. OMC was again denied access to the carrier's records and the carrier subsequently refused to comply with an administrative subpoena issued for its records. That is when OMC referred the case to the OIG for criminal investigation and potential prosecution.

### **Most Violations of Safety Regulations Do Not Result in Enforcement Actions**

During FY 1995, enforcement actions were processed on 12 percent (2,957 of 24,636) of all violations found during compliance reviews for the 29 most violated regulations. These included:

- Hours-of-service violations, falsified driver logs, non-current driver logs, and false reports of records of driver duty status;
- failure to implement an alcohol and/or controlled substance testing program, and use of drivers with suspended or cancelled commercial drivers license; and
- use of commercial motor vehicle not periodically inspected.

In FY 1998, the percentage of enforcement actions processed decreased to 11 percent of the violations found. The following graph shows the number of violations found and included in enforcement actions for FYs 1995 through 1998.



For driver log violations, which include falsified logs and driving more hours than allowed, 11 percent of FY 1995 violations were included in penalty actions. This dropped to 8 percent in FY 1998.

**Enforcement Cases Are Being Settled for Significantly Less Than Assessed**

In the small percentage of cases where violations resulted in civil penalties, OMC settled for significantly less than the amount originally assessed. In our opinion, the fines do not effectively deter carriers or drivers. The companies apparently just consider them "a cost of doing business."

From FY 1995 to FY 1998, settlements declined from 67 cents on the dollar assessed to 46 cents. The following table presents the history of assessments and settlements during FYs 1995 through 1998.

## Civil Penalty Assessments and Settlements

Fiscal Year	Assessment	Settlement	Percent of Assessment
1995	\$10.3 million	\$6.9 million	67%
1996	\$9.8 million	\$6.4 million	65%
1997	\$6.4 million	\$3.8 million	59%
1998	\$5.9 million	\$2.7 million	46%

From 1995 to 1998, the average penalty originally assessed per enforcement case decreased from \$5,575 to \$3,517. The average settlement decreased from \$3,734 to \$1,592. The decrease in enforcement actions and the lower average assessment and settlement amounts indicates OMC has reduced emphasis on strong penalty actions to achieve compliance. This trend is reflected in OMC inspectors' responses to our questionnaire where 87 percent of the inspectors believed more enforcement action should be used to bring carriers into full compliance.

OMC was not closing enforcement cases in a timely manner. According to OMC records, as of November 1998, there was a backlog of 1,174 enforcement cases that have remained open from 6 months to 8 years. Of the 1,174 open cases, 543, or 56 percent, had been open for over 2 years. Without timely closure of enforcement cases, the integrity of the enforcement process is undermined. The critical need to close enforcement cases is demonstrated in the fact that 71 of the 127 motor carriers with three or more enforcement cases since FY 1995 had an open enforcement case. Open enforcement cases effect selection of motor carriers for compliance reviews when prioritizing the high-risk carriers and the Uniform Fine Assessment program assesses smaller penalties to violators with open cases.

Repeat violators warrant, but often do not get, stiffer enforcement actions that will ensure prompt and sustained compliance with motor carrier safety regulations. For example, in 1996 OMC fined a carrier \$3,000 for not having current medical certificates on all of its drivers. In 1998, that carrier was fined only \$1,900 for the same violation.

### **Insufficient Data Limits Targeting of High-Risk Motor Carriers**

Since March 1997, FHWA, to its credit, has used the Motor Carrier Safety Status Measurement System (SafeStat) to continuously quantify and monitor the safety status of motor carriers using crash, driver performance and vehicle inspection, compliance review, and enforcement information. However, OMC currently cannot target all motor carriers with the worst safety records because its database is incomplete and inaccurate. For example, SafeStat determines a motor carrier's

safety relative to carriers of comparable size. However, driver and vehicle information on 71,145 motor carriers (16 percent of the total population) was not in OMC's Motor Carrier Management Information System (MCMIS). Carriers missing this data normally would not be scored or prioritized for a review, even if they had the worst record in the industry.

In addition neither OMC'S or NHTSA's databases contain information of crash causes or fault because comprehensive crash evaluations are not performed when fatal crashes occur. Comprehensive crash evaluations could provide important insights into initiatives OMC could undertake to prevent future crashes and to target high-risk motor carriers.

### **Untimely Data Impacts SafeStat's Rankings**

While the use of SafeStat is a significant improvement over the past practice, OMC still cannot target all carriers with the worst safety records because data entry is not timely. In 1997, 31 percent of the crashes reported by the states were entered into MCMIS more than 180 days late. Timely entry of accident data into the MCMIS is important because a recent crash (one that occurs in the past 6 months) is weighted three times greater than one that occurred more than 18 months ago by the SafeStat system.

The Surface Transportation Assistance Act of 1982 established the Motor Carrier Safety Assistance Program (MCSAP). This program provides resources to augment the OMC work force. It was initially appropriated at \$8 million for FY 1984. The amount of MCSAP appropriations has increased steadily to \$90 million in FY 1999. Under this program DOT awards grants to states for the development and implementation of programs to improve commercial vehicle safety and for data collection of safety performance data.

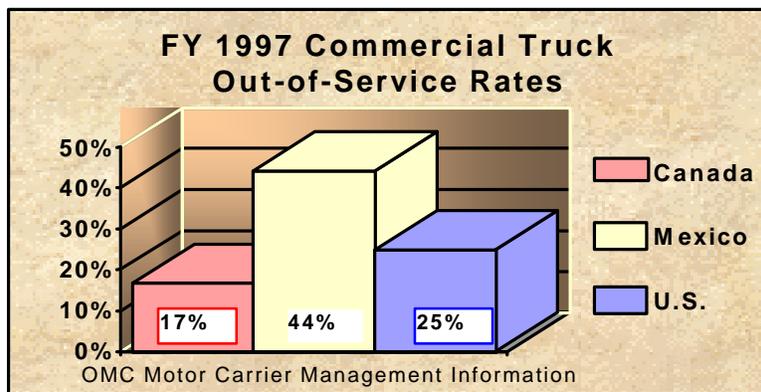
### **Trucks Entering the U.S. from Mexico Frequently Do Not Meet U.S. Standards**

In our December 1998 audit report, "Motor Carrier Safety Program For Commercial Trucks At U.S. Borders (Report No. TR-1999-034)," we concluded that neither OMC nor the border states, with the exception of California, is taking sufficient actions to ensure that trucks entering the United States from Mexico meet U.S. safety standards.

Since 1992, when the United States, Canada, and Mexico signed the North American Free Trade Agreement, DOT and the border states have pointed to each other when asked who has the responsibility for inspecting trucks crossing the

border. Neither the Federal Government nor the border states (except California) has provided the necessary resources. For example, at El Paso, Texas, an average of 1,300 trucks enter daily, yet only one inspector is on duty and he can inspect only 10 to 14 trucks daily. At other crossings, there are times when there are no inspectors.

Far too few trucks are being inspected at the U.S.-Mexico border, and too few inspected trucks comply with U.S. safety standards. Of those Mexican trucks inspected, about 44 percent were placed out of service because of serious safety violations. This contrasts with a 25-percent out-of-service rate for U.S. trucks and a 17 percent out-of-service rate for Canadian trucks.



The 1997 truck out-of-service rates for the four border states with Mexico ranged from 28 percent in California, where a good inspection program has been in place and the quality of trucks has improved, to 50 percent in Texas.



With the exception of California, a significant increase is urgently needed in the number of inspectors, the number of trucks inspected, and the hours of inspection coverage to make sure trucks entering the United States from Mexico are safe. OMC and the States point to each other as having responsibility for inspecting trucks entering the United States. In view of this continuing debate, we are not confident that the necessary actions are imminent.

### **Strong Leadership Is Needed for an Effective Motor Carrier Safety Program**

In 1998, the House Appropriations Transportation Subcommittee suggested transferring OMC to the National Highway Traffic Safety Administration (NHTSA). Several years ago, the Department proposed creating a Surface Safety Administration. The trucking industry would like a separate administration focused on trucking, just like the Federal Aviation Administration for air travel and the Federal Railroad Administration for rail travel. There are pros and cons to each of these alternatives but none provide a clear-cut answer.

Regardless of where the truck safety organization is placed in DOT, the organization will require strong leadership, a very high focus on safety and reducing fatalities, and management willing to fight the tough battles when necessary and make the hard decisions such as issuing shut down orders to trucking firms when warranted. A robust program involving outreach and education, buoyed by aggressive and progressive enforcement, is absolutely essential to reducing the number of fatalities.

A range of alternatives exists: retention in FHWA, placement within NHTSA, creation of a new administration within the Department that would include safety-related issues for all surface transportation modes, and creation of a Motor Carrier Safety Administration. There are pros and cons associated for each alternative.

- Since FHWA's main focus is in infrastructure development and funding, the motor carrier safety program, under FHWA, may not receive the priority it deserves. The OMC staff we surveyed shares this concern. When asked their views on the proposed transfer to NHTSA, 48 percent moderately to strongly favored it. FHWA's mission has been primarily directed towards surface infrastructure development, including distribution and management of \$22 billion of grants annually. That mission demands and deserves a significant amount of senior management attention within FHWA. Motor carrier safety often seems subordinate. This does not, however, mean that motor carrier safety cannot be effectively managed within the FHWA, but doing so will require an extraordinary effort to ensure safety receives a top

priority. Also, the credibility of OMC has been significantly harmed by the recent disclosure that its most senior managers did not always have an "arms-length" relationship with the industry it was responsible for regulating.

- NHTSA is a centralized organization with the majority of its workforce in Washington D.C. This contrasts with the motor carrier mission, which has most of its resources in the field. NHTSA's primary role is to oversee manufacturers of passenger and commercial vehicles, and safety features of those vehicles. NHTSA's enforcement program does not apply to operator safety. Consequently, NHTSA does not deal with the same type and magnitude of enforcement issues as does OMC.
- A separate surface safety organization conceptually has appeal because its sole mission would be safety and it would have the ability to examine issues such as operator fatigue across all modes of transportation. Such an administration might bring together the surface safety oversight functions scattered throughout the Department: FHWA (OMC), NHTSA, RSPA, FRA, and FTA. In fact, in the early 1990's the Administration proposed such a reorganization and was rejected. Establishing a surface safety organization would most likely be costly, and it would cause significant disruption to DOT's safety program because of the time it would take to establish an effective structure. .
- A new Motor Carrier Safety Administration would require additional costs and would impact only FHWA. The motor carrier industry supports this option. The industry believes the administration would be a dedicated agency and have a clearly defined mission of safety improvements. Unless visible improvements in safety were achieved and a strong enforcement program adopted, critics would question the administration's closeness to industry.
- Considering the range of options, the two most viable and practical are leaving the motor carrier safety function in the Highway Administration or creating a Motor Carrier Safety Administration dedicated to motor carrier safety. The principal drawback to the NHTSA option is that NHTSA's mission, though dedicated to safety, is heavily focused on regulating the manufacture of vehicles. NHTSA has no experience regulating and enforcing the safety of operating trucking companies and their drivers. The Surface Transportation Safety Administration, while appealing in concept, would be the most complex and disruptive to establish. Large pieces of five Department of Transportation agencies would have to be removed from their present organization and merged into one to form the new organization.
- One approach available to the Secretary and the Congress is to base the

decision on whether a Motor Carrier Safety Administration is necessary on FHWA's commitment and expeditious implementation of action needed to substantially strengthen enforcement. The Federal Highway Administration's comments on this report make such a pledge. If Congress and the Administration decide on this approach, the measure of success should be bottom-line improvements in motor carrier safety and a one-year timeline should be set to judge the agency's progress and make the final decision.

However, based on our work, together with a nearly 30-year history of congressional and public calls for strengthening motor carrier safety, we increasingly are of the view that it would be in the long term interests of public safety to create a Motor Carrier Safety Administration. The simple fact is that under the current organizational arrangement, motor carrier safety necessarily will compete for leadership attention and emphasis with the legitimate, if not primary, Federal Highway Administration mission of investing over \$20 billion annually in highways and bridges. In light of the increasing number of fatalities associated with large trucks, demand for truck drivers and enormous industry growth in the last few years, the safety challenge will be larger and more urgent. This situation justifies an agency with a clear, preeminent safety mission, free of the need to compete with other very important transportation department missions.

We also are troubled by the fact that it has taken so long for the Federal Highway Administration to recognize, as it does in comments on this report, that the pendulum has swung too far away from enforcement of safety rules. Also, almost a year ago, TEA-21 was enacted, which provided additional enforcement authority to the Federal Highway Administration, yet those mandates have not been implemented. The Highway Administration now says it will move to do this immediately and improve the safety program, but this is occurring on the heels of and with prompting by multiple congressional hearings, adverse findings by the DOT Inspector General, the General Accounting Office, and the National Transportation Safety Board.

We hope the Federal Highway Administration's commitments to change are followed through with a sense of urgency and made permanent, as this would save many lives on our highways, prevent injuries, and avoid economic loss. In our opinion, the likelihood of this occurring would increase if the leadership and charter of the agency responsible for motor carrier safety had motor carrier safety as its exclusive and unambiguous mission, together with a strong safety enforcement program.

However, it should be recognized that unless visible improvements in safety

were achieved and a strong enforcement program adopted, critics would question the new Motor Carrier Safety Administration's closeness to industry, just as they do with the current Office of Motor Carriers. It is pointless to make an organizational change if only the chairs from one agency are shifted to another or by simply changing the organization's name.

- Regardless of where the truck safety mission is organizationally placed, the responsible organization must have strong leadership, a clearly defined mission of safety, and tenacity to make safety its "North Star."
  - Leadership is critical. OMC's senior leadership was brought into question with the recent release of an OIG investigative report which concluded that an improper and inappropriate relationship existed between senior OMC officials and the trucking industry they regulate. OMC, wherever located, simply cannot be effective without an "arms-length" relationship with the industry it regulates.
  - OMC's current goals, established in 1999 as part of GPRA, allow it to accept the relatively flat "rate of fatalities" in relation to miles traveled. With 5,300 lives lost in 1997, this measure does not foster or contribute to the sense of urgency needed to significantly reduce the outright number of fatalities. FHWA's FY 2000 Performance Plan proposes a goal to reduce the number of fatalities involving commercial motor vehicles by 3.9 percent (from 5,126 in 1996 to 4,934 in 2000). If the FHWA proposed goal is adopted, it would be a clear signal that we intend to substantially reduce the number of fatalities and injuries associated with large truck crashes rather than allowing them to increase as mileage driven increases.

### **Other Actions Can Be Taken to Improve Truck Safety**

Organizational realignment and strong industry oversight alone may not achieve significant reductions in fatalities. There are numerous actions to help prevent truck crashes and fatalities that should be considered as part of the current debate. Several warrant further consideration, and they are not affected by OMC's location in DOT.

- Increasing driver accountability. Make the driver responsible for inspecting the truck just like a pilot must do for the aircraft. The driver must be held accountable for ignoring safety deficiencies. By implementing this requirement, both the company and the driver could be sanctioned for out-of-service violations related to vehicle condition.

- Requiring periodic inspections. Require all trucks to undergo an independent inspection not less than annually, similar to the requirements that exist for automobiles in some states. Companies determined to have good safety inspection processes could be certified to self-inspect their vehicles and perhaps those of other companies as well.
- Adopting a 60-mile-per-hour maximum truck speed nationwide. There is no national speed limit. The impact of a full “18-wheeler” weighing as much as 80,000 pounds hitting another vehicle, perhaps an automobile or a minivan weighing about 3,000 pounds, at a speed greater than 60 miles per hour is often fatal. Some of the largest trucking companies in the United States support a truck speed limit of 60 or lower.
- Improving the visibility of trucks. Simple solutions such as the use of reflective tape would make trucks more visible.
- Continuing to add rumble strips along the major highways. Rumble strips are an effective means to alert inattentive and tired drivers when they go off the road.
- Adopting satellite technology for monitoring. Fatigue is believed to be the number one cause of crashes. Satellites are a very effective means for monitoring compliance with hours-of-service rules.
- Revising Hours of Service Regulations. This is necessary to ensure they reflect the latest research on fatigue. This was recommended by the National Transportation Safety Board.
- Improving driver awareness. Mirrors or other sensors now being developed and marketed can alert a driver to his surroundings and thereby help prevent crashes.

Mr. Chairman, this concludes my statement. I would be pleased to respond to questions.

### Survey of Office of Motor Carrier Division Personnel<sup>1</sup>

1. Are you currently a GS/GM-2123 or GS/GM-2125 with the Office of Motor Carriers?

2123	174	(Safety Investigators, and Program Specialists)
2125	72	(Program Specialists, and State Directors)
Unknown	10	(Used in TOTAL calculation)
TOTAL	256	Eligible respondents
	73%	Adjusted response rate (excluding ineligible)

2. How long have you been with OMC?

2123	8.5 Yrs	Average
2125	14.2 Yrs	Average

3. During a typical month, what percentage of your work time do you spend on the following activities?

	2123	2125	TOTAL
Compliance reviews	37.49%	4.89%	27.37%
Enforcement activities	12.70%	4.04%	10.14%
Administrative duties	14.06%	19.37%	15.57%
Monitoring programs	6.30%	23.30%	11.47%
Outreach	4.99%	3.57%	4.47%
Attending meetings/seminars	4.15%	9.38%	5.64%
Speaking to associations/trucking companies	2.84%	3.17%	2.88%
Roadside inspections	3.79%	0.26%	3.24%
Reviewing investigators' compliance reviews	2.50%	6.23%	3.68%
Training (attending)	2.09%	2.24%	2.31%
Training (conducting)	1.76%	2.21%	1.97%
Supervising investigators	1.43%	15.40%	5.38%
Accident investigations	1.41%	0.99%	1.28%
Other	4.49%	4.95%	4.60%

4. Prior to the reorganization into four Virtual Resource Centers, there were nine Regional Offices. Which region did you work in before the reorganization? ( Regions number 1,3,4,5,6,7,8,9,&10)

TOTAL

1	3	4	5	6	7	8	9	10
12.20%	8.90%	19.50%	15.90%	14.20%	8.10%	6.50%	8.10%	6.50%

<sup>1</sup> Totals include additional respondents for whom job series was unknown.

5. How do you usually select carriers for compliance reviews?

	2123	2125	TOTAL
Assigned to me	38%	13.64%	35.00%
Regular review cycle	0.67%	0.00%	0.60%
Complaint	1.33%	4.55%	1.70%
Accident	0%	4.55%	0.60%
Time since last review	0.00%	0.00%	0.00%
SafeStat scores	55.33%	72.73%	57.10%
Other	4.67%	4.55%	5.10%

Questions 5 and 6 exclude respondents who do not perform compliance reviews.

6. In general, when do you conduct follow-up compliance reviews?

	2123	2125	TOTAL
Within 6 months	10.39%	4.55%	10.40%
Within 12 months	16.88%	4.55%	14.80%
After a complaint	0.65%	0.00%	0.50%
After an accident	0%	4.55%	0.50%
SafeStat scores	51.30%	63.64%	52.70%
Never	2.60%	4.55%	2.70%
Other	18.18%	18.18%	18.10%

7. After a compliance review is completed and an enforcement action is sent forward, how often do you find out the final disposition (i.e., the recommended penalty was paid, a reduced penalty was negotiated, the action was dropped)?

	2123	2125	TOTAL
Rarely or never	26.90%	12.68%	22.30%
Sometimes	24.56%	18.31%	22.70%
About half the time	7.60%	7.04%	7.20%
Most of the time	21.64%	21.13%	21.50%
Always or almost always	19.30%	40.85%	26.30%

8. Where are decisions to drop enforcement actions usually made? At the Division Office, the Resource Centers/Regional Office, or Headquarters (i.e., DOT Washington)?

	2123	2125	TOTAL
Usually at Division Office	32.74%	29.85%	32.80%
Usually Resource Ctr/Reg Off	52.98%	50.75%	51.20%
Usually at Headquarters	4.76%	13.43%	7.00%
Don't know	9.52%	5.97%	9.00%

9. Are you familiar with the DOT Office of Inspector General's program to criminally prosecute carriers?

	2123	2125	TOTAL
Yes	86.71%	94.44%	89.00%
No	13.29%	5.56%	11.00%

10. How would you rate the quality of the compliance reviews being conducted today compared to the compliance reviews being conducted when you joined OMC?

	2123	2125	TOTAL
Much better than when I joined	41.18%	33.80%	38.60%
Somewhat better	27.06%	25.35%	26.10%
About the same	20.59%	21.13%	21.70%
Worse than when I joined	6.47%	12.68%	8.40%
Much worse than when I joined	4.71%	7.04%	5.20%

11. Overall, how would you rate the OMC enforcement program?

	2123	2125	TOTAL
Excellent	4.62%	2.82%	4.00%
Very good	16.18%	12.68%	15.00%
Good	33.53%	36.62%	34.40%
Fair	29.48%	29.58%	30.40%
Poor	16.18%	18.31%	16.20%

12. How much impact do you think each of the following changes to the OMC operation would have on OMC's effectiveness? (The following were rated as making OMC moderately to much more effective.) Each respondent had the opportunity to rate seven separate actions.

	2123	2125	TOTAL
Put unsafe carriers out-of-service	93.06%	98.59%	94.90%
Larger fines for repeat offenders	88.31%	93.05%	90.10%
More enforcement actions	86.04%	87.50%	86.50%
More compliance reviews	67.06%	75.00%	69.70%
Larger fines for first time offenders	48.24%	50.00%	50.60%
More roadside inspections	41.28%	23.61%	36.80%
Consistent fines*	30.77%	34.28%	32.20%

\* Same dollar fine regardless of carriers size.

13. What policy and/or procedural changes do you think would make OMC most effective? (Narrative responses fell into 30 categories/subcategories. Of all responses, the most frequently suggested changes are shown below. Because respondents could suggest more than one change, the percentages in the table reflect the total number of answers, rather than the number of respondents.) The following account for over 40 percent of the coded responses.

	2123	2125	TOTAL
Management issues	14.05%	9.41%	12.60%
Return to enforcement agency	7.57%	16.47%	10.50%
More compliance reviews	8.11%	9.41%	8.30%
Repeat offenders out-of-service	8.11%	2.35%	6.50%
Other enforcement actions	5.41%	8.24%	6.10%

14. What is your opinion about moving OMC from FHWA to NHTSA? Are you...

	2123	2125	TOTAL
Strongly in favor	27.06%	23.53%	25.20%
Moderately in favor	19.41%	30.88%	22.40%
Neither in favor nor opposed	32.94%	25.00%	32.10%
Moderately opposed	7.06%	14.71%	8.90%
Strongly opposed	13.53%	5.88%	11.40%

15. Besides moving OMC from FHWA to NHTSA what other options to improve OMC's effectiveness should be considered? Of all the responses, the most frequently suggested options are shown below.

	2123	2125	TOTAL
Separate agency	31.58%	47.44%	37.30%
Better enforcement	21.05%	11.54%	18.20%
Change structure	17.76%	21.79%	18.60%

16. During the past four years, how many investigators do you personally know of who have left OMC?

	2123	2125	TOTAL
0	12	0	12
1 - 5	66	29	99
6 - 10	58	24	86
11 - 15	18	7	26
More than 15	15	9	24

17. What would you say are the main reasons that investigators have left OMC?  
 (Will sum to more than 100% because respondents were asked to mark all choices that apply.)

	2123	2125	TOTAL
Advancement opportunities	76.25%	91.55%	80.80%
OMC leadership	63.75%	70.42%	65.80%
OMC policies	49.38%	61.97%	53.80%
Change of work	34.38%	33.80%	33.80%
Conflicts with management	26.25%	23.94%	25.00%
Geographical change	16.25%	21.13%	17.10%
Dislike work	15.00%	9.86%	12.90%
Conflicts with co-workers	5.63%	4.23%	5.00%
Other	14.38%	25.35%	17.90%

18. In general, how would you rate the safety for trucking (i.e., trucks are maintained properly and driven safely). Would you say trucking safety is...

	2123	2125	TOTAL
Excellent	0.58%	0.00%	0.80%
Very good	16.86%	13.04%	15.60%
Good	44.77%	62.32%	49.60%
Fair	32.56%	18.84%	28.80%
Poor	5.23%	5.80%	5.20%

19. What is the biggest problem you face in trying to accomplish your job?  
 (Of all the responses, the most frequent problems are shown below.)

	2123	2125	TOTAL
Lack of direction-Headquarters	10.07%	16.92%	12.10%
Not enough safety investigators	8.72%	20.00%	12.60%
Personal issues	18.79%	12.31%	16.60%

PERCENTAGES ARE BASED ON THE NUMBER OF RESPONDENTS WHO ANSWERED EACH QUESTION.

PERCENTAGES MAY NOT TOTAL 100% DUE TO ROUNDING.